

REMARKS

This is in response to the Office Action dated March 28, 2005. Claims 1-31 are pending.

Claims 13-15, 17-26 and 28-31 stand rejected under 35 U.S.C. Section 102(b) as being allegedly anticipated by Teyssedre. This Section 102(b) rejection is respectfully traversed for at least the following reasons.

Claims 13-15, 17-26 and 28-31 as amended require that the glass is substantially free of nickel. For example support, see original claims 4, 16, and 27. Teyssedre fails to disclose or suggest this. Instead, Teyssedre teaches the opposite of what these claims require. Teyssedre requires the use of substantial amounts of Ni in the glass in order to meet its desired color. One of ordinary skill in the art would never have removed substantial amounts of Ni from the glass of Teyssedre because the desired color would no longer be met. Thus, because of the large amounts of Ni required by Teyssedre, the inventions of amended claims 13-15, 17-26 and 28-31 cannot be met by this reference.

Claim 1 stands rejected under 35 U.S.C. Section 102 as being allegedly anticipated by Boulos. This Section 102 rejection is respectfully traversed for at least the following reasons.

Amended claim 1 requires a difficult-to-achieve *combination* of a grey glass having both (a) an IR transmittance (%IR) of no greater than 35%, and (b) a UV transmittance (%UV) of no greater than 40%. This combination of low IR% and low UV% is difficult to achieve, and Boulos cannot do so. In particular, Boulos cannot achieve a combination of both (a) an IR transmittance (%IR) of no greater than 35%, and (b) a UV transmittance (%UV) of no greater than 40%. Even though Boulos seeks good UV and IR properties, Boulos was not able to figure out how to achieve a grey glass which realizes both (a) and (b). Thus, it will be appreciated that amended claim 1 defines over Boulos for at least this reason.

Furthermore, applicant notes that when the claimed invention is not identically disclosed in a reference, and instead requires picking and choosing among a number of different options or embodiments disclosed by the reference, then the reference does not anticipate. *See Akzo N.V. v. United States Int'l Trade Commission*, 808 F.2d 1471, 1480 (Fed. Cir. 1986), *cert. denied*, 482 U.S. 909 (1987); *In re Arkley*, 455 F.2d 586, 587-88 (CCPA 1972). Thus, the PTO cannot randomly pick and choose different features from different embodiments of a reference in an attempt to meet the invention of a claim.

Claims 13 and 25 require a combination of both (a) an IR transmittance (%IR) of no greater than 35%, and (b) a UV transmittance (%UV) of no greater than 40%. Again, Boulos fails to disclose or suggest a grey glass capable of achieving this combination that is required by claims 13 and 25. Moreover, there is no reason why or how anyone could modify Boulos to meet these requirements of claims 13 and 25.

Claim 1 stands rejected under 35 U.S.C. Section 102 as being allegedly anticipated by Arbab (presumably 2003/0216242). This Section 102 rejection is respectfully traversed for at least the following reasons.

Claim 1 requires very specific parameters including from 0.01 to 1.0 % cerium oxide. Arbab fails to disclose or suggest this feature of claim 1. Moreover, there is no suggestion or motivation in the art of record which would have led one of ordinary skill to have modified Arbab to meet this requirement of claim 1. Applicant again notes that when a claimed invention is not identically disclosed in a reference, and instead requires picking and choosing among a number of different options or embodiments disclosed by the reference, then the reference does not anticipate. *See Akzo N.V. v. United States Int'l Trade Commission*, 808 F.2d 1471, 1480 (Fed. Cir. 1986), *cert. denied*, 482 U.S. 909 (1987); *In re Arkley*, 455 F.2d 586, 587-88 (CCPA

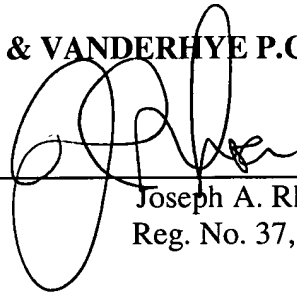
1972). One cannot randomly pick and choose different features from different embodiments of a reference in an attempt to meet the invention of a claim.

For at least the foregoing reasons, it is respectfully requested that all rejections be withdrawn. All claims are in condition for allowance. If any minor matter remains to be resolved, the Examiner is invited to telephone the undersigned with regard to the same.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



Joseph A. Rhoa
Reg. No. 37,515

JAR:caj
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100